

SBA

SOP 10 08

SBIC Examinations Guidelines

Office of SBIC Examinations
Office of Investment

U.S. Small Business Administration



SMALL BUSINESS ADMINISTRATION STANDARD OPERATING PROCEDURE

SUBJECT: SBIC Examinations Guidelines	S.O.P.		F
	SECTION 10	NO. 08	

INTRODUCTION

1. Purpose. To provide current instructions and guidelines for the examination of Small Business Investment Companies.
2. Personnel Concerned. All personnel in Headquarters and field offices who are involved in the examination of Small Business Investment Companies.
3. Directives Canceled. None.
4. Originator. Office of SBIC Examinations,
Investment Division

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Chapter 1

General Overview of the Examinations Process

1. What Is The Purpose of an SBIC Examination?

- a. The Office of SBIC Examinations conducts examinations of Small Business Investment Companies (SBIC) to:
 - (1) Determine whether licensees are complying with the Small Business Investment Act of 1958 and implementing regulations;
 - (2) Assess the financial condition of licensees and SBA's financial vulnerability; and
 - (3) Ensure the accuracy of information that licensees submit to SBA.
- b. As examiners, our role is to independently gather and report objective, factual information to the Office of SBIC Operations (Operations), so that Operations can effectively monitor and regulate the SBIC program.

2. What Authority Do Examiners Have to Conduct Examinations?

Our authority to conduct examinations of SBICs is defined in the Small Business Investment Act of 1958, as amended, and in Title 13, Code of Federal Regulations, Section 107.690.

3. What Records Can an Examiner Obtain and Review?

- a. Agency Records

As examiners, we have access to all Agency records that relate to the SBIC program, including reports, audits, documents, correspondence, recommendations, and other material. SBA employees must provide any available information we request that relates to the SBIC examination function.

- b. Licensee Records

Under Title 13, Code of Federal Regulations, Section 107.691, we have access to a licensee's books, records, and other pertinent documents. We also have access to the working papers of the licensee's independent public accountant.

c. Records of the Portfolio Concern

Title 13, Code of Federal Regulations, Section 107.620(c), gives us access to the books and records of portfolio concerns receiving financing from licensees. This regulation requires licensees to:

- (1) Obtain any information that we request to verify certifications made by portfolio concerns, including those concerning the use of proceeds; and
- (2) Ensure that financing documents contain provisions giving us access to the portfolio concern's books and records.

4. What Restrictions Exist on Disclosing Information?

- a. The information we obtain during examinations, including the contents of examination reports, is sensitive and privileged information. SBA employees, including examiners, should never disclose such information to anyone outside the Agency without the prior approval of the Director of SBIC Examinations. An employee who violates this policy could be disciplined through prescribed Agency personnel regulations.
- b. We often receive requests for examination reports and workpapers under the Freedom of Information Act and the Privacy Act. These requests must be promptly referred to the Director of SBIC Examinations.

5. What Professional Standards Does SBA Expect of Examiners?

Given the frequency of our contacts with licensees, we must always represent the Agency and the SBIC program in a professional manner. The Agency also expects that we:

- a. Maintain our independence, objectivity, and credibility at all times;
- b. Complete our examinations and issue our reports in a timely manner;

- c. Conduct quality examinations that respond to the needs and concerns of the Offices of SBIC Operations and SBIC Liquidation;
- d. Have a thorough knowledge of regulatory and statutory requirements pertaining to the SBIC program and the examination process; and
- e. Demonstrate proficiency in financial analysis and accounting principles, standards, and techniques.

Chapter 2

Organization and Structure of the Office of SBIC Examinations

1. How is the Office of SBIC Examinations Organized?

- a. The Office of SBIC Examinations is one of four offices in the Investment Division. The other offices include the Office of SBIC Operations, the Office of SBIC Liquidation, and the Office of the Chief Administrative Officer.
- b. The Office of SBIC Examinations has a Headquarters staff and seven field offices. The Director of the Office of SBIC Examinations reports directly to the Deputy Associate Administrator for Investment.
- c. Examinations Managers supervise our field offices and report to the Director of SBIC Examinations. Examiners are located in the various field offices and report to their assigned Examinations Manager.

2. Where Are Examinations Field Offices Located?

- a. Field offices are located in geographical areas that enhance the overall effectiveness and efficiency of our mission. While we try to have long-term stability in office locations, we may relocate offices, or the number of examiners within an office, to reflect:
 - (1) Changes in the number of licensees within geographical areas;
 - (2) Imbalances in workload within existing offices; and
 - (3) Efficiencies in travel costs.
- b. Our main field offices are each headed by an Examinations Manager. Satellite field offices serve as extensions of a main field office and report to an assigned Examinations manager. We currently have three main field offices and four satellite offices, as shown below:

Main Office

New York
Atlanta
San Francisco

Satellite Office

Boston
Philadelphia and Chicago
Dallas

3. What Is the Role of the Director of Examinations?

The Director of SBIC Examinations has overall responsibility for managing and directing the Agency's program to examine Small Business Investment Companies. The Director's responsibilities include:

- a. Setting overall goals and priorities;
- b. Developing and revising examination policies and procedures;
- c. Coordinating the examination function with other Investment Division offices;
- d. Monitoring the flow of examinations to make sure that they are scheduled, conducted, and reviewed in a timely manner throughout the country;
- e. Monitoring the consistency of examination findings among field offices;
- f. Evaluating the performance of field managers; and
- g. Identifying training needs of examiners.

4. What Is the Role of an Examinations Field Office Manager?

- a. Field office managers supervise the day-to-day operations of the examination process; assist the Director of SBIC Examinations to develop and meet office-wide goals; and ensure that Investment Division priorities are met. Field office managers work closely with their examiners to:
 - (1) Schedule licensees for examination;
 - (2) Assign examiners, and teams of examiners, to specific examinations;
 - (3) Review draft reports and supporting workpapers; and
 - (4) Issue final examination reports in a timely manner.
- b. Field office managers have the authority to approve and issue examination reports.

Before issuing a report, the manager must review it for clarity, conciseness, thoroughness, objectivity, soundness of findings, and consistency in the application of Investment Division policies and procedures.

5. What is the Role of an Examiner?

Examiners work individually, and in teams, to determine whether licensees are complying with the SBIC Act and implementing regulations. After completing an examination, the examiner prepares a draft report, for review by his/her field manager, that explains what was found during the examination.

Chapter 3

Managing the Examinations Process

1. What Is My Primary Responsibility as a Field Office Manager?

As a field office manager, your primary responsibility is to make sure that examinations are scheduled and conducted in a timely manner, and that the reports you issue reflect quality examinations.

2. How Do I Develop an Annual Examinations Schedule?

Your first step in managing the examination process is to plan your workload. The *Annual*

Examinations Schedule is the end result of your planning and reflects:

- Regulatory Requirements for Examining SBICs;
- Investment Division Goals and Priorities;
- Concerns of the Office of SBIC Operations;
- Concerns of the Office of SBIC Liquidation; and
- Complexity of Pending Examinations.

a. Regulatory Requirements for Examining SBICs

- (1) When you develop your annual schedule, recognize that Section 310(b) of the Small Business Investment Act of 1958, as amended, requires us to examine each licensee at least every 2 years. You should schedule the first examination of a new licensee within the first year of licensing, or sooner if the financial analyst in the Office of SBIC Operations requests you to do so.

- (2) The only exception to not having a biennial examination is when the Associate

Administrator for Investment grants a waiver to an examination because of special circumstances. For example, the Associate Administrator may grant a waiver when a licensee has its operations suspended because it is involved in litigation or has been placed in receivership.

- (3) When a licensee is the subject of an ongoing investigation by the Office of Inspector General or another Federal law enforcement agency, you should not conduct an examination unless you receive clearance to do so from the law enforcement agency conducting the investigation.

b. Investment Division Goals and Priorities

- (1) During the fourth quarter of each fiscal year, the Associate Administrator for Investment meets with his/her senior staff, including the Director of Examinations, to develop goals and priorities for the upcoming year. The Director of Examinations will inform you of any new goals and priorities, and changes from the prior year. Because the SBIC program operates in a dynamic and changing environment, goals and priorities may be changed or modified at any time.
- (2) Unless you receive different guidance, make sure that your annual schedule includes the following established Investment Division priorities:
 - (a) All licensees on the Office of SBIC Operation's *Watch List* ;
 - (b) All licensees having leverage;
 - (c) All requests for priority examinations made by the Office of SBIC Operations or the Office of SBIC Liquidation;
 - (d) Those non-leveraged licensees that had no findings in the last examination should be scheduled for examination using a 2-year cycle; and
 - (e) Those non-leveraged licensees having findings in the last examination should be scheduled for examination using an 18-24 month cycle.

c. Concerns of the Office of SBIC Operations

In the fourth quarter of each fiscal year, you should phone the Area Chiefs in the Office of SBIC Operations to find out which licensees they need examined on an expedited basis during the next year. In addition, it is important that you maintain an ongoing contact with the Area Chiefs you work with during the year to learn of their changing needs and concerns.

d. Concerns of the Office of SBIC Liquidation

- (1) In most cases, you should not schedule examinations of licensees that have been transferred to the Office of SBIC Liquidation. There will be instances, however, when analysts in the Office of SBIC Liquidation request an examination. For example, we may be asked to conduct an examination to determine whether a licensee is complying with the terms of a settlement agreement.
- (2) In the fourth quarter of each fiscal year, the Director of Examinations will meet

with the Director of SBIC Liquidation to determine whether there are any licensees in a liquidation status that need to be examined during the next year.

In

addition, it is important that you maintain ongoing contacts with the supervisory staff in the Office of SBIC Liquidation to learn of their special needs.

e. Complexity of Pending Examinations

Certain examinations, by their very nature, are more complex than others and may require additional time to complete, or a team of more than one examiner. You should therefore consider the complexity of each examination when preparing your annual schedule. For example, an unleveraged bank-owned licensee will normally require one examiner for less than a week of on-site work. On the other hand, a highly capitalized participating security licensee may require more than one examiner for more than a week of on-site work.

3. What Should My Annual Examinations Schedule Look Like?

- a. After considering all the factors that affect planning, prepare an annual schedule that shows the names and addresses of all licensees to be examined in the next year. The schedule must be in chronological order by examination start date (month and year), and include the name of the assigned examiner. The four headings for the schedule are:

- (1) Start Date (Month and Year);
- (2) Name of Licensee;
- (3) Address of Licensee (City and State); and
- (4) Assigned Examiner.

- b. You must submit your annual schedule to the Director of Examinations for review and approval by September 15th of each year. After approving your schedule, the Director of Examinations will forward copies of it to the Associate Administrator for Investment, the Director of SBIC Operations, and the Director of SBIC Liquidation.

4. When Should I Revise the Annual Examinations Schedule?

- a. You must revise the annual schedule whenever changes occur that alter the sequence of examinations. The *Annual Examinations Schedule* is a dynamic and flexible planning tool that reflects constantly changing priorities inherent in the examination process. To keep the schedule useful, you must continually update it and provide a revised copy to the Director of Examinations at the start of each month. For example, you will drop some licensees from the list, or reschedule them to a later date, as their status in the program changes. Likewise, you will add licensees to the list, and move others to an earlier date as the necessity for an examination becomes more urgent.
- b. Changes to the *Annual Examinations Schedule* often occur as a result of requests made by the Office of SBIC Operations. For example, the Office of SBIC Operations may request that you add a newly licensed SBIC to the schedule, or that you give higher priority to a scheduled examination due to the licensee's request for funding. You must also revise the annual schedule whenever the OIG Investigations Division notifies us that an investigation of a licensee has started or ended. Other factors, as explained below, will also alter the annual schedule.

(1) Requests for Special Examinations

- (a) While most of your examinations are conducted on a regular 12-24 month cycle, there will be certain situations in which you must schedule and conduct an examination as soon as possible. These situations involve the immediate necessity to protect Federal funds and safeguard the integrity of the SBIC program. For example, a licensee may be in a precarious financial condition (such as a condition of capital impairment), or there may be indications of a pervasive, intentional or persistent disregard of the regulations.
- (b) The Associate Administrator for Investment has the discretion to order the immediate examination of any licensee. The Director of SBIC Operations and the Director of SBIC Liquidation have the authority to request such an examination. Whenever you receive an order or request to conduct a special examination, you should consider it your top priority, and schedule it on an expedited basis. In most cases, you should begin a special examination within 30 days of receiving the request.

(c) You normally will initiate a special examination in response to a written request. The request should fully explain the need for a special examination, and specify those areas and financings the examination should focus on.

After reviewing the request, you should work closely with the requester to define the scope of the special examination. Because special examinations are usually limited in scope, they do not take the place of periodic examinations.

(2) Decisions to Postpone An Examination

(a) You should postpone a scheduled examination only after you receive, and agree with, an appropriate written request from the Director of SBIC Operations or an Area Chief. Normally, this situation occurs when the examination would cause undue inconvenience, hardship, or conflict with other activities of the licensee. If you disagree with a request to postpone an examination, promptly refer the matter to the Director of SBIC Examinations for resolution.

(b) Whenever you postpone an examination, reschedule it for the earliest date possible and revise the annual schedule to show a new start date.

Periodically review the status of postponed examinations to decide whether they should continue to be delayed.

(3) Workload Imbalances

(a) You must promptly revise your annual schedule whenever workload imbalances result in overall delays. For example, there may be times when you need to reassign examiners to handle unexpected priority examinations. Or you may already have a backlog of high-priority examinations and need to use examiners from another field office to assist with the overflow.

(b) You must request and obtain approval from the Director of SBIC Examinations before using examiners from another field office or agreeing to allow your own examiners to handle examinations in another office.

5. **How Do I Inform Operations of Revisions to Our Annual Schedule?**

At the beginning of each month, send the appropriate Area Chief a list of those licensees

you plan to examine during the next month. You should send a copy of this list to the Director of SBIC Liquidation and the Director of SBIC Examinations.

6. What Is My Role in Promoting Quality Examinations?

Along with the Director of SBIC Examinations and other field managers, you are part of the team that manages the examinations process. As a first-level supervisor, you have primary responsibility for ensuring that the examinations conducted by your staff, and the reports you issue, demonstrate a quality work product. A quality examination is one that:

- a. Reflects the examiner's professionalism, independence, and sound judgment;
- b. Is fair, objective, thorough, and accurate;
- c. Is conducted in sufficient depth to clearly support findings of regulatory noncompliance, or a determination that no findings exist;
- d. Includes findings, and other issues, that are fully supported by workpapers;
- e. Is completed in a timely manner with no undue delays; and
- f. Results in a report that is clear, complete, and concise.

7. How Do I Ensure Quality Examinations?

You have numerous supervisory tools available to you to ensure that examinations meet our standards for high quality. For example, you have the authority to:

- a. Assign examinations to individual examiners or teams;
- b. Participate in sensitive examinations as team leader;
- c. Determine, and expand, the scope of the examination;
- d. Direct and guide your examiners' efforts;
- e. Review draft reports and supporting workpapers;
- f. Recommend needed training for examiners;
- g. Rate the performance of your examiners; and

- h. Recommend policy changes to enhance efficiency and productivity

8. What Management Reports Am I Required to Prepare?

You must submit specific management reports to the Director of Examinations. These reports cover the status of examinations in progress, the processing of invoices, and summaries of travel expenses.

a. Monthly Status Report of Examinations

5th The Office of SBIC Examinations maintains a monthly summary of all examinations completed and in process during the fiscal year, as well as those scheduled to begin over the next 2 months. You must update your section of the report each month to show the current status of the examinations you manage. Your input is due by the
and of each month. The report is presented in alphabetical order by name of licensee, includes the following headings:

- (1) Name of Licensee;
- (2) License Number;
- (3) Date of Last Examination;
- (4) Examiner Assigned;
- (5) Date Examination Started;
- (6) Date Site work Started;
- (7) Date Site work Ended;
- (8) Date Draft Report Was Submitted to Manager; and
- (9) Date Report was Issued.

b. Monthly Travel Authorization Report

- (1) The Office of SBIC Examinations maintains an office-wide travel report to monitor actual versus budgeted travel costs so that amounts over or under the budgeted amounts can be continuously monitored.

showing (2) At the end of each month, you must submit a travel authorization report

an updated status of all travel you've authorized during the fiscal year. The report is presented in order of authorization date and includes the following headings:

- (a) Authorization Number;
- (b) Date of Authorization;
- (c) Name of Examiner;
- (d) Estimated Cost;
- (e) Travel Start Date;
- (f) SBIC Being Examined;
- (g) Date Voucher Submitted; and
- (h) Actual Cost.

c. Additional Reports

may The Associate Administrator for Investment and Direct or of SBIC Examinations
reports require you to submit additional management reports from time to time. These
will normally concern:

- (1) Schedules of upcoming examinations,
- (2) Status of pending or ongoing examinations,
- (3) Problems encountered during an examination,
- (4) Recommended revisions to current examination procedures,
- (5) Reasons for slippages in the *Annual Examinations Schedule*, and
- (6) Leave schedules for field office staff.

9. What Is My Role in Maintaining Current Policies and Procedures?

- a. As situations arise, we may need to update this directive or issue new directives that further explain, revise or cancel current policies and procedures. These directives are intended to clarify issues of such importance and magnitude that an immediate and written office position is needed.
- b. As a field office manager, you must be constantly alert to areas in our policies and procedures that need revision. In addition, the Director of SBIC Examinations may require you to assist in making these revisions.

Chapter 4

Examiner's Responsibilities When Conducting Examinations

1. How Do I Prepare for an Examination?

Thorough preparation is vital to the examination process. You must complete several steps when preparing for an examination.

- Notify the Licensee of the Examination;
- Review Existing Documentation on the Licensee;
- Talk to the Financial Analyst in SBIC Operations;
- Select the Financings to be Reviewed;
- Obtain Credit Reports for Selected Financings; and
- Send Confirmations to Selected Portfolio Concerns.

a. Notify the Licensee of the Examination

- (1) You should notify the licensee in writing, at least 30 days in advance, of the date you will be making the on-site visit. Send a copy of your letter to the appropriate Area Chief in the Office of SBIC Operations.
- (2) Your notification letter informs the licensee's management to prepare and have available on site certain information for the examination period, including:
 - (a) Books of account;
 - (b) Bank account reconciliations;
 - (c) Bank statements, canceled checks, wire transfer authorizations;
 - (d) List of all cash and idle fund accounts, including account numbers and the names and addresses of financial institutions;
 - (e) Minutes of all board of directors meetings;
 - (f) Documentation on the valuations of all portfolio concerns;
 - (g) Current financial statements on all portfolio concerns;

- (h) All legal documents and correspondence relating to the portfolio concerns;
 - (i) Stock certificate book, or partnership agreement and amendments;
 - (j) Correspondence files; and
 - (k) Amendments to Proposal to Operate (SBA *Form 415C*).
- (3) In your notification letter, request that the licensee send you the following information within 10 working days:
- (a) Working trial balance;
 - (b) Schedule of financings, including a list of all new or additional financings made since the last examination cut-off date, together with a list of officers, directors, and shareholders or partners of these portfolio companies;
 - (c) Schedule of the licensee's portfolio, showing outstanding balances;
 - (d) Schedule of delinquencies;
 - (e) An executed *Disclosure Statement*;
 - (f) Schedule of financings paid-off, written off, and sold since the last examination; and
 - (g) Schedule of distributions made on Participating Securities (if applicable) since the prior examination, including the date, type, and amount.

b. Review Existing Documentation on the Licensee

the
With guidance from your supervisor, review all available information concerning licensee. Your review must include:

- (1) Prior examination reports and related workpapers;
- (2) Actions taken by the Agency and the licensee on prior examinations;
- (3) Correspondence between the licensee and Office of SBIC Operations; and
- (4) Reports submitted to the Agency—such as the financial reports, program evaluation reports, and the independent accountant's audit report.

c. Talk to the Financial Analyst in SBIC Operations

would
should

(1) Phone the appropriate financial analyst in SBIC Operations to discuss the upcoming examination. The purpose of the call is to inform the analyst of the examination dates, to learn about any special areas or concerns the analyst like addressed during the examination, to identify specific financings you focus on, and to make sure you have all pertinent correspondence involving the licensee.

send

(2) In addition to your phone call, send a fax to the analyst requesting any issues or concerns he/she would like you to address during the examination. You must send this fax to the analyst at least 14-30 days prior to starting your site work. The analyst must fax a reply back to you (including a no comment reply) at least 1 week before you begin your site work.

d. Select the Financings to be Reviewed

After reviewing the existing documentation and talking with the financial analyst, select the financings to review during the examination. In most cases, you should review all financings made since the last examination. Whenever you decide to use a sample, the sample size should represent at least 50 percent of the dollar value of the licensee's total financings. You may increase the sample size to include additional financings as a result of information you obtain during the examination.

e. Obtain Credit Reports for Selected Financings

small
determining:

(1) Unless your field manager decides otherwise, obtain a credit report for each concern that has received financing from the licensee during the examination period. While these reports have limitations, they are often useful in

- (a) Name, address, SIC Code, and history of the business;
- (b) Financings that represent bona fide assets of the licensee;
- (c) Financings to businesses that may not meet Agency size standards;
- (d) Credit ratings of the business;
- (e) Financial condition of the business;
- (f) Affiliations between companies financed by the licensee; and

(g) Indications of any self-dealing transactions.

(2) You must obtain follow-up credit reports whenever: (a) changes have taken place in the financial condition or ownership of the small concern, or (b) additional financings have been made to the small concern.

f. Send Confirmations to Selected Portfolio Concerns

2. How Do I Conduct the On-Site Phase of the Examination?

a. Entrance Conference

The on-site phase of the examination begins with an entrance conference. Meet with licensee officials to give an overview of the examination process and inform them of what information, documentation, and facilities you need to conduct the examination.

b. Invoice for Examination Fees

- (1) During the entrance conference, explain to the licensee official that the Examination's Headquarters office will mail an invoice of the examination fee when the examination is completed. Explain that the fee is based on the licensee's assets as of the date of its latest certified financial statement, and is computed using the rate table in Title 13, Code of Federal Regulations, Section 107.692.
- (2) Do not assess a fee for a special examination unless your field manager directs you to do so. We normally do not assess a fee for a special examination because these examinations are limited in scope and made to obtain specific information.
- (3) SBA may assess an additional fee if the examination is delayed or prolonged due to a lack of cooperation on the part of the licensee or the poor condition of the licensee's records. The Associate Administrator for Investment, after consulting with the Director of SBIC Examinations, has the authority to assess the licensee an additional fee based on delays caused by the licensee.

c. Examination Procedures

- (1) The specific review procedures you use during the examination will depend on several factors, such as:

- you
as
of:
- (a) Financial condition of the licensee;
 - (b) Period of time since the last examination;
 - (c) Licensee's prior regulatory history; and
 - (d) Amount of SBA leverage.
- (2) The examination process is flexible. With guidance from your field manager, can expand the scope of the examination on the basis of information you gather the review proceeds. At a minimum, your examination must include a review

- (a) Books of account and supporting documentation;
- (b) Selected assets and liabilities (including confirmations);
- (c) Financing files for selected portfolio concerns;
- (d) Valuation procedures and practices;
- (e) Corporate minutes and ownership records;
- (f) Partnership agreements and amendments (if applicable);
- (g) Correspondence files; and
- (h) Licensee policies, practices, and procedures.

d. Visits to Small Concerns

- (1) For licensees having SBA leverage, you should schedule as much time as is reasonable and practical to making visits to portfolio concerns. These visits are often useful in confirming the existence of the firms, obtaining general information on their operations, and verifying the use of financing proceeds. You must make a visit when issues arise during your examination that indicate the portfolio concern may be involved in a regulatory violation. Also, you must make field visits to:
- (a) Small concerns having a PO Box address;

(b) Small concerns with a credit report indicating that no business exists at the reported address; and

(c) Clusters of small concerns at the same location, especially those at or near the licensee's location.

(2) Decisions not to visit companies such as those just listed require the concurrence of both the field manager and the Director of SBIC Examinations.

e. Review Workpapers of Independent Public Accountant

You should review the workpapers of the licensee's independent public accountant and use them to the extent practicable.

f. Contacting Your Field Manager

You should immediately contact your field manager for guidance whenever urgent matters arise during the examination. These matters include, but are not limited to:

(1) Situations requiring timely action to protect SBA's financial interests;

(2) Conditions either precluding or handicapping the examination; or

(3) Substantive indications of fraud which would violate criminal statutes.

g. Exit Conference

(1) After you finish the on-site examination, you must meet with licensee officials for an exit conference. During this meeting, present the results of your examination, obtain comments from the licensee on each finding, and clarify any misunderstandings relating to the facts.

(2) Never accept verbal representations of licensee officials as proof that a finding does not exist or that past findings have been resolved. Always require the licensee official to provide documentation to show that a finding either does not exist or has been satisfactorily resolved.

(3) During the exit conference, explain the process in which examination findings are handled by the Office of SBIC Operations. Emphasize that it is the responsibility

of the Office of SBIC Operations to determine whether a finding is a violation and the appropriate corrective action needed to correct the finding. Take special care not to discuss possible corrective actions that should be taken by the licensee.

(4) You should allow licensee officials, whenever they request it, the opportunity to respond to your examination findings in writing. When they make such a request, explain that you must have their written comments within 1 week, and that you will not delay the normal processing of the examination report by waiting more than 1 week for their comments to arrive.

h. Mandatory Phone Call to Operations Analyst

After finishing the on-site phase of the examination, phone the financial analyst handling the licensee and give him/her a briefing on the results of your examination. You don't have to make this call from the licensee's office, but you should make it no later than the day you return to your field office. Be sure to cover any findings you've developed, as well as any other important issues.

i. Return Visits to Licensees

(1) As part of their monitoring duties, financial analysts in the Office of SBIC Operations visit their portfolio of assigned licensees to determine whether corrective action has been taken to resolve examination findings.

(2) There may be instances when you must assist the analyst by returning to the licensee to confirm, through documentation, that corrective action has, in fact, been taken. Your field manager, after discussing the situation with the responsible Area Chief in the Office of SBIC Operations, will decide whether you should make a return visit.

3. **What Workpapers Do I Need to Prepare?**

a. Workpapers are a standard part of the examination process. They provide a systematic record of the work done in making an examination, and a structured way of organizing information obtained and developed in support of an examination's findings. Workpapers should include your source of information, your initials, and the date you prepared them. Your workpapers must be:

- (1) Accurate;
- (2) Complete;
- (3) Well Organized;
- (4) Neat and Legible; and
- (5) Self-explanatory.

b. Permanent and Current Workpapers

During an examination, you prepare two types of workpapers—permanent and current.

a You must update the permanent workpapers because they contain basic background information of continuing use from one examination to the next. You must prepare a distinct set of current workpapers each time you examine a licensee because these files contain information that pertains only to the current examination.

c. Location of Workpapers

In general, you should maintain your workpapers in your field office. You must obtain approval from your Examinations Manager before moving workpapers to another location.

4. **How Do I Write an Examination Report?**

a. When you write an examination report, you communicate the results of your examination to Investment Divisions officials responsible for taking action involving the licensee. Your report must be clear, concise, factual, accurate, objective, and in sufficient depth to allow these officials to understand the reported matters and take appropriate action. To ensure fairness, your reports must include pertinent comments and explanations of the licensee.

b. Report Format

Examination reports include a cover and follow a standard format. The standard format always includes the following sections:

- (1) Table of Contents;
- (2) Summary;
- (3) Introduction;
 - (a) Background;
 - (b) Objectives and Scope;
- (4) Status of Prior Findings;
- (5) Findings;
- (6) Other Matters; and
- (7) Exhibits.

c. Findings

- (1) Findings are factual situations found during an examination that you believe to be major regulatory violations of the Small Business Investment Act or the SBIC regulations. The types of apparent violations to include in your report as findings are:
 - (a) Activities Not Contemplated by the Act;
 - (b) Conflicts of Interest;
 - (c) Prohibited Control of a Small Business;
 - (d) Short-Term Financings;
 - (e) Overline Investments;
 - (f) Relending, Foreign, Passive, or Other Prohibited Investments, Including Prohibited Real Estate Financings;
 - (g) Excessive Cost of Money;
 - (h) Inappropriate Distributions, Including Improper Dividends and Excessive Expenditures;

- (i) Impairment and Valuation Issues; and
- (j) Other Matters From Prior Examinations That Remain Unresolved

- (2) The *Findings* section begins with a heading that cites the regulation governing the finding discussed. The first paragraph summarizes the finding. The second paragraph explains the regulation at issue. Subsequent paragraphs explain the details of the finding. Each finding in your report must include the sub-heading, “Licensee’s Comments,” and be followed, when appropriate, by the sub-heading, “Evaluation of Licensee’s Comments.”
- (3) Your report should omit discussions of causes, effects, or recommendations. When recommendations are appropriate, include them in the transmittal report that accompanies the report.

d. Other Matters

Use the *Other Matters* section of the examination report to present apparent violations that are of a less serious regulatory nature than those included in the *Findings* section. You should also use this section to discuss any possible or potential violations, as well as any other issues you believe are important.

e. Transmittal Memorandum

- (1) You must prepare a transmittal memorandum that forwards the examination report from your field manager to the Director of SBIC Operations. Transmittal memoranda are internal documents for use by officials in the Investment Division, and should never be provided to licensee officials. In the transmittal memorandum, you must specify and address any issues raised by the Operation’s analyst you contacted at the beginning of the examination.
- (2) When the analyst responded to your inquiry, but did not provide you with issues to address during the examination, include the following wording in the transmittal letter:

“Prior to the examination, we contacted the financial analyst to inquire whether the Office of SBIC Operations had any concerns or outstanding

issues to be addressed during the examination. The analyst advised us that he (she) had no specific issues to be addressed at this time.”

- (3) When the analyst did not respond to your inquiry, include the following wording in the transmittal letter:

“Prior to the examination, we contacted the financial analyst to inquire whether the Office of SBIC Operations had any concerns or outstanding issues to be addressed during the examination. The analyst did not reply to our inquiry (ies).”

f. Report Distribution

Your field manager reviews, approves, and issues examination reports. You should assist the manager in making sure that the report is issued in a timely manner and that copies of the report are sent to the appropriate Investment Division officials for action.

In most cases, you will send our reports to either the Director of SBIC Operations or the Director of SBIC Liquidation. The normal distribution route may change when investigative considerations are involved.

5. When Should I Recommend an OIG Referral?

During your examinations, you may find situations or transactions that appear to indicate fraud, abuse, illegal expenditures, or other illegal acts. Normally, you will not have enough

time to adequately pursue these issues within the time frame of a regular examination. In these cases, you should obtain whatever information is readily available to assist the Office of Inspector General (OIG) in making a well informed decision about whether to investigate the matter.

a. Referral Procedures

Whenever you find or suspect illegal activity on the part of a licensee, you must report

the matter to the Investigations Division of the Office of Inspector General. Referrals

should be made in writing, unless the urgency of the matter, such as a bribe or gratuity, demands an immediate telephone report. In such cases, prepare a confirming written report following the call.

b. Referral Memorandum

(1) When making an OIG referral, draft a memorandum from the Director of SBIC Examinations to SBA's Assistant Inspector General for Investigations. After your field manager reviews the memorandum, send it to the Director of SBIC Examinations for signature. Fully explain why you suspect an illegal activity and include all pertinent documentation to support the referral. When appropriate, you should include your examination report as an attachment to the referral memorandum.

(2) If you are uncertain about whether to make a referral, prepare a referral memorandum for review by your field manager, the Director of SBIC Examinations, and the Associate Administrator for Investment.

c. Distribution of Referrals

Whenever a referral is made to the Office of Inspector General, the Director of SBIC Examinations will promptly send copies of the referral to:

- (1) Associate Administrator for Investment;
- (2) Deputy Associate Administrator for Investment;
- (3) Director of SBIC Operations; and
- (4) Director of SBIC Liquidation.

d. Hindering, Obstructing or Preventing Referrals

No one has the authority to hinder, obstruct, or prevent a referral from being made to the Assistant Inspector General for Investigations.

e. Bribes and Gratuities

- (1) A bribe or gratuity is a violation of federal law (Title 18, United State Code, Section 201). You must immediately report a bribe or gratuity to the Office of Inspector General.
- (2) Bribery is defined as the giving, offering, or promising of something of value to influence a public official in the conduct of business. A gratuity is defined as the

giving, offering, or promising of something of value for any official act performed or to be performed. A gratuity does not have to influence an official act.

(3) Never delay reporting a bribe or gratuity by waiting to prepare a formal, written report. Attempted bribery is of such a serious nature that it must not await a formal, written report. In such cases, you should immediately report the matter to an OIG Special Agent, Regional Inspector General for Investigations, or directly to the Assistant Inspector General for Investigations.

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